

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

1 IRAIDA RAMIREZ VIVAS et al.,

2 Plaintiffs,

3 v.

CIVIL NO. 98-2419 (RLA)

4 GLADYS SOTOMAYOR et al.,

5 Defendants and Third-Party
6 Plaintiffs,

7 v.

8 ROBERTO SANTIAGO et al.,

9 Third-Party Defendants
10

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U.S. DISTRICT COURT
SAN JUAN, P.R.

11 MINUTES AND ORDER OF INITIAL SCHEDULING CONFERENCE
12 HELD ON SEPTEMBER 28, 1999

13 The parties appeared before the undersigned in chambers for an
14 Initial Scheduling Conference on September 28, 1999, from 3:45 p.m.
15 to 4:20 p.m. ELISA M. FIGUEROA BAEZ ESQ., represented plaintiffs.
16 MARIA DE LOS ANGELES GARAY, ESQ. appeared on behalf of defendants
17 GLADYS SOTOMAYOR and UNIVERSAL INSURANCE. Third-party defendants,
18 who are in default, did not appear.
19

20 The Court queried the parties regarding their respective
21 versions of how plaintiff's decedent's fall occurred. It is alleged
22 that he was backing up from the entrance leading to his friends'
23 apartment on the second floor and leaned against the stairway
24 railing, which gave way causing him to fall two floors, resulting in
25 his death.
26

20 no

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1 Defendants SOTOMAYOR and UNIVERSAL argue that the maintenance
2 of the stairway railing and overall premises was the responsibility
3 of third-party defendants SANTIAGO and DELONE, who at the time of the
4 accident had leased the entire building from SOTOMAYOR. The lease
5 allegedly required defendants to obtain insurance coverage as well
6 as to maintain the premises. Defendants further allege that once the
7 real estate is leased, the Civil Code of Puerto Rico provides a
8 presumption that the lessee is responsible for whatever damages are
9 caused therein.
10
11

12 DISCOVERY

13 Depositions

14 The deposition of defendant GLADYS SOTOMAYOR has already been
15 taken.

16 The deposition of both plaintiffs, IRAIDA RAMIREZ VIVAS,
17 decedent's mother, and VILMA SANCHEZ RAMIREZ, decedent's sister,
18 shall take place on **October 7 and October 8, 1999.**

19
20 It appearing that defendants wish to depose third-party
21 defendants ROBERTO SANTIAGO DELGADO and FIOR D. DELONE MOREL, who are
22 currently in default, their appearance at the depositions shall be
23 procured by way of a subpoena pursuant to Rule 45 F.R.Civ.P.
24

25 Accordingly, IT IS FURTHER ORDERED that **no later than October**
26 **14, 1999,** defendants shall serve subpoenas for the taking of

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1 depositions, upon third-party defendants ROBERTO SANTIAGO DELGADO and
2 FIOR D. DELONE MOREL at Gettysburg St. N-10, Park Gardens, Río
3 Piedras, P.R., which depositions shall take place on **October 28,**
4 **1999,** under penalty of contempt of court for failure to appear.
5

6 Defendants and plaintiffs shall continue to make efforts to find
7 the whereabouts of RAFAEL DE LA CRUZ, who appears in the police
8 report as an alleged eyewitness, and whose whereabouts are unknown
9 at this time.
10

11 **Discovery Deadlines**

12 The Court admonished the parties of their failure to submit a
13 detailed schedule for completion of discovery as required by the
14 undersigned's ISC Order and warned that in the future, any further
15 violations would be met with sanctions.
16

17 Accordingly, IT IS HEREBY ORDERED that the parties shall abide
18 by the following DISCOVERY and PRETRIAL schedule:

19 **AMENDMENT TO THE PLEADINGS**

20 There shall be no further amendments to the pleadings.
21

22 **WRITTEN DISCOVERY**

23 All WRITTEN DISCOVERY, i.e., interrogatories, requests for
24 production of documents, requests for admissions, etc. shall be
25 propounded **no later than October 15, 1999.**
26

DEPOSITIONS OF FACT WITNESSES

All DEPOSITIONS OF FACT WITNESSES, including the parties, shall be concluded no later than November 30, 1999.

EXPERT WITNESSES

A. Plaintiffs' Expert Witness(es)

The REPORT of all expert witnesses plaintiffs intend to utilize at trial shall be provided to defendants no later than October 29, 1999.

The DEPOSITION of plaintiffs' expert witness(es) shall be taken no later than November 30, 1999.

B. Defendant's Expert Witness(es)

The REPORT(s) of all expert witness(es) defendants intend to use at trial shall be provided to plaintiffs no later than November 15, 1999.

The DEPOSITION(s) of defendants' expert witness(es) shall be taken no later than December 15, 1999.

The parties are admonished that all written expert reports shall include:

"[A] complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to

1 be used as a summary of or support for the
2 opinions; the **qualifications** of the witness,
3 including a list of all **publications** authored by
4 the witness within the preceding ten years; the
5 **compensation** to be paid for the study and
6 testimony; and a **listing of any other cases** in
7 which the witness has testified as an expert at
8 trial or by deposition within the preceding four
9 years." Rule 26(a)(2)(B) Fed. R. Civ. P.
10
11 (emphasis ours).
12

13 **DISPOSITIVE MOTIONS**

14 The deadline for submitting dispositive motions, if any, to
15 opposing counsel in accordance with the procedure set forth in the
16 STANDING ORDER - PROCEDURE FOR FILING DISPOSITIVE MOTIONS IN CIVIL
17 TRIALS ASSIGNED TO JUDGE RAYMOND L. ACOSTA, issued on May 19, 1998,
18 is **November 15, 1999**.
19

20 **FAILURE TO COMPLY**

21 Counsel are admonished that the failure to comply with the terms
22 of this Order may result in the imposition of sanctions upon the
23 party and/or counsel personally, including but not limited to the
24 payment of reasonable expenses and/or the striking of claims,
25 defenses or witnesses.
26

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PRETRIAL AND TRIAL SETTINGS

A JURY TRIAL in these proceedings shall commence on **February 17, 2000, at 9:30 a.m.**

A SETTLEMENT CONFERENCE is hereby scheduled for **January 12, 2000, at 11:30 a.m.** Counsel for the parties shall appear prepared to discuss settlement negotiations in earnest with the necessary authority from their respective clients.

A PRETRIAL/SETTLEMENT CONFERENCE is hereby scheduled for **February 2, 2000, at 4:30 p.m.**

PRETRIAL ORDER

A PROPOSED JOINT PRETRIAL ORDER shall be filed **on or before January 26, 2000.**¹ Once approved by the Court, the Proposed Joint Pretrial Order may be modified only upon a showing of good cause.

The PROPOSED JOINT PRETRIAL ORDER shall set forth the following:

I. Nature of the Case

A statement of the nature of the case agreed upon by all parties. In the event that the parties cannot agree upon a single description, separate versions shall be submitted.

¹ A courtesy copy shall be delivered directly to the chambers of the undersigned.

II. Theories of the Parties

Each party shall present concisely its pertinent legal theories including applicable citations to statutes and caselaw. Counsel are directed to fully disclose all trial issues since the Proposed Joint Pretrial Order will supersede the pleadings in establishing the issues to be heard and considered at trial.

III. Admitted Facts

The parties shall provide a comprehensive listing of all admitted or stipulated facts.

IV. Contested Facts

The parties shall provide a listing of contested facts.

V. List of Exhibits

This section shall contain a listing of all exhibits which have been pre-marked/numbered. Each exhibit shall be identified by a descriptive title as well as its identification number. The parties shall indicate which exhibits, if any, are not objected to by opposing counsel. An additional copy of all documents intended to be used at trial shall also be furnished to the undersigned in accordance with the STANDING ORDER FOR CIVIL TRIALS issued by the undersigned on **February 10, 1994**.

VI. Depositions

The party wishing to use deposition testimony at trial shall list the depositions. Additionally, designations and objections shall be submitted in accordance with the undersigned's STANDING ORDER FOR CIVIL TRIALS issued on **February 10, 1994.**

VII. Witnesses

Each party shall identify witnesses to be presented at trial and include a brief, one paragraph, offer of proof.

VIII. Expert Witnesses

When applicable, each party shall list its expert witness and include his/her curriculum vitae and an offer of proof. If an expert report has been produced, THE REPORT SHALL BE SUBMITTED IN CONJUNCTION WITH THE OFFER OF PROOF.

IX. Itemized Statement of Special Damages

In the event that the issue of special damages may arise, an itemized statement of special damages shall be incorporated into the Proposed Joint Pretrial Order. The party or parties not in agreement with the proposed statement shall include its/their opposition in this section.

X. Estimated Length of Trial

Parties shall indicate the estimated length of trial.

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STANDING ORDER

The parties shall also file a TRIAL BRIEF² no later than February 11, 2000, in accordance with the undersigned's STANDING ORDER FOR CIVIL TRIALS issued on February 10, 1994. The parties shall make the necessary arrangements with the courtroom deputy clerk to have the evidence marked prior to trial.

This order shall be notified by FAX and mail.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 30th day of September, 1999.

Jury Clerk



RAYMOND L. ACOSTA

United States District Judge

² Courtesy copy shall be delivered directly to the chambers of the undersigned.

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SUMMARY OF DEADLINES

10/07-10/08/99 Depositions of plaintiffs

10/14/99 Deadline for defendants to serve subpoena upon third-party defendants pursuant to Rule 45 F.R.Civ.P.

10/15/99 Deadline for parties to propound written discovery

10/29/99 Deadline for plaintiffs to provide expert report(s)

11/15/99 Deadline for defendants to provide expert report(s)

11/15/99 Deadline for serving dispositive motions, if any, in accordance with Standing Order

11/30/99 Deadline for deposition of plaintiffs' expert(s)

11/30/99 Deadline for fact witnesses depositions

12/15/99 Deadline for deposition of defendants' expert(s)

01/12/00 SETTLEMENT CONFERENCE at **11:30 a.m.**

01/26/00 Deadline for filing of Joint Pretrial Order

02/02/00 PRETRIAL/SETTLEMENT CONFERENCE at **3:30 p.m.**

02/11/00 Deadline for filing of Trial Briefs

02/17/00 JURY TRIAL at **9:30 a.m.**